Health Reform and Workers' Comp

What's coming and what it means to you

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Joseph Paduda

HEALTH STRATEGY ASSOCIATES *Smart Moves.Winning Strategies.*

Health care

- Workers comp medical is about $30 billion

- Total medical - $2.2 trillion

Health Reform

- **Will not <u>directly</u> affect P&C**
  - No mention of P&C or WC in Pres. Obama's platform or policy papers or Senate bills (Finance, HELP) or House Committee reform versions
    - Except Rockefeller amendment, which was rejected
  - No interest in workers comp inside the Beltway
    - Title X
      (inclusion of work comp in Clinton reform initiative)
- **But will affect P&C <u>indirectly</u>**

Pre-reform measures will impact WC

- Stimulus Bill
  - HIT funding for development and implementation of Electronic Health Records (EHR)
  - Research on comparative effectiveness

Stimulus - HIT funding for EHR

- $17 billion over five years administered by CMS for hospitals and physicians
- Supports clinical decision support, physician order entry, clinical data capture and sharing
- Penalties starting in 2015 for providers w/o EHR

Stimulus - Effectiveness research

- $1.3 billion + invested in various agencies and research to evaluate effectiveness of specific procedures and impact of medical care on functionality, outcomes, quality of life

- Likely to directly effect Medicare reimbursement policies
- Over time this will impact private pay
- Impact on workers' comp likely significant - and positive

Potential 'non-reform' Federal measures/legislation

- Pharma - Enable price negotiation with pharma manufacturers
  - Currently in HB 3200 (one of the House reform bills)
  - Would potentially reduce costs by $256 billion over ten years
  - Impact on WC is uncertain but likely not positive
    - Cost shifting?

Potential 'non-reform' Federal measures/legislation

- Pending changes to Medicare physician and ancillary reimbursement via rule-making
  - Small increases in ortho, hand surgery, Chiro, ER (1 - 5%)
  - Larger increases for physiatry (non-surgical orthopedics), PT/OT,physical medicine (6 - 10%)
  - Big cuts for radiology, Dx testing, nuclear medicine (-10 - -24%)

- May be overtaken by reform

Pharmacy - Medicare drug pricing

- US is the only developed country where government does not negotiate drug prices
- This may well change - HHS Sec. may be authorized/required to negotiate with big pharma to reduce drug costs
  - Either reference price or mandatory rebate at 15%, also increase Medicaid rebate to 21%
- Impact on WC likely not positive - cost shift

Physician Reimbursement - Background

- All fee schedules are based on Medicare RBRVS
  - ‘Resource based relative value scale’
  - RBRVS is Medicare-specific
  - Not appropriate for non-medicare populations
  - Imaging is RBRVS

RBRVS

- RBRVS assigns procedures performed by a physician or other medical provider a relative value which is adjusted by geographic region. This value is then multiplied by a fixed conversion factor, which changes annually, to determine the amount of payment.

- RBRVS determines prices based on three separate factors: physician work (52%), practice expense (44%), and malpractice expense (4%)

- No adjustments for quality or results

Physician Reimbursement - Background

- Medicare and the Sustainable Growth Rate
  - SGR balances price and volume of services to hit total cost goal
  - Every year fee reduction has been overturned by Congress
  - 21.5% reduction in price set for 1/1/2010
- History - political battles of 2008 over SGR
  - GOP lost the battle last summer to cut physician reimbursement - a painful lesson
- SB 1776 recently rejected by bipartisan vote
  - Would have eliminated SGR and $247 billion deficit

Physician Reimbursement - potential changes via legislation

- Better reimbursement for cognitive services is already in process, additional increases highly likely
  - Primary care, office visits, time with patients
- Lower reimbursement for procedures also highly likely
  - Surgery, Imaging, “doing stuff to patients”
  - 2007 CMS revisions, Deficit Reduction Act

Physician Reimbursement - Impact on Workers' Comp

- Better reimbursement for primary care may mean better primary care
  - More time with claimants, employers, adjusters
- Impact of lower reimbursement for specialists is ambiguous
  - May reduce number and therefore availability of surgeons and other specialists
  - May reduce number of surgeries and MRIs

Physician Reimbursement - Impact on Workers Comp

- NCCI has yet to assess impact in their states, but is working on it.
- Medicare changes don't directly lead to WC fee schedule changes
  - RBRVS = relative value units x conversion factor
  - Timing
- Likely adjustments will be made to fee schedules to address access concerns
  - And mollify powerful lobbying interests

Reform and Facilities

- 'Safety-Net' facilities likely to benefit (a lot) from increased revenue, suffer (a bit) from lower 'disproportionate share' payments
  - Fewer uninsured
- Public option would have significant potential impact on finances
  - Depending on reimbursement level and policies, ability of providers to 'opt out'

Facilities, reform, and impact on work comp

- Less reason to cost shift to workers comp patients
  - Comp is - by far - the most profitable line for most hospitals
- Political cover for refusal to pay for 'never-ever' events
  - Hospital infections, surgical errors
- Revised reimbursement covering admissions and post-admission care
  - Higher hospital costs, incentive to improve care, potential for WC payers to adopt similar policies

Reform - current status

- Intensive efforts from all stakeholders, elected officials, and Administration
- Unlikely to use the reconciliation process; 60 Senate votes will be needed
- Getting a bill acceptable to moderates and core Democrats is critical
  - Public plan option with triggers
  - Cost under $900 billion over ten years

Reform - the Insurance Industry

- Insurance Industry - from Harry and Louise to Thelma and Louise
- PwC Report's conclusions were correct, the way they were delivered by AHIP was boneheaded.
- Without a strong mandate, carriers have to be able to underwrite.

Reform - Issues

- Public plan option
- Funding and Taxation of benefits
- Cost v coverage
- Enforcement of mandate - mechanism, penalty, time frame

Best Guess

- Reform odds a bit better than 50/50
- Major implications for comp - with, or without, health reform
- What will pass
  - Limited/trigger public option
  - Cost control that is score-able
  - A phased-in mandate
  - Some modest taxation of benefits
  - Higher taxes on high earners
- Major changes to Medicare
  - Facility, physician, ancillary, drug fees and fee structure

If reform passes; Implications for workers' comp

- Electronic health records
- Changes in reimbursement methodology and levels
- Focus on functionality and maintenance thereof
- Impact on cost shifting is variable
- Healthier workers with less need for comp to pay to treat chronic conditions/comorbidities

Summary

- We don’t know what will happen
- We do know what might happen
- We can make educated assumptions about the potential impact on workers comp
- Change is coming
- Success favors the prepared